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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 466 OF 1993

Babu Padu Palekar ...Appellant.
Since deceased through his L.Rs.

Vs.

The Special Land Acquisition Officer, Panvel. ...Respondents.

Mr. Ameya Tamhane i/by Ms. Seema Sarnaik for appellant No.1.

Mr.S.N.Gawade for the State.

ALONG WITH

FIRST APPEAL NO. 652 OF 2001

The Special Land Acquisition Officer, Panvel ...Appellant.

Vs.

Babu Padu Palekar, ...Respondents.
Since deceased through his L.Rs.

Mr.S.N.Gawade for the State.

Mr. Ameya Tamhane i/by Ms. Seema Sarnaik for respondent No.1.

CORAM : ANOOP V. MOHTA,J.

DATED : 30th July, 2007

P.C.

1. In both these appeals, challenge is made to the order dated 28/02/1990 passed by the Additional District Judge, Raigad which arise out of the award dated 05/09/1986 based on the notification dated

03/02/1970 bearing survey No. 6 of Village Valvali, Tq. Panvel, Dist. Raigad having total area 7780 sq. mtr.

2. The appellant in reference No.38/1987 claimed compensation at the rate of Rs.20/- per sq. mtr. By the impugned order, the learned Judge has granted at the rate of Rs.8/- per sq. mtr. Therefore, challenge by the appellant-owner.

3. Whereas in first appeal No.652 of 2001, the State Government have challenged the impugned order of granting the compensation at the rate of Rs.8/- per sq. mtr. The learned counsel appearing for the appellant has relied basically on the decision of this Court in **First Appeal No.25/1993 dated 22nd April, 2004, the State of Maharashtra Vs. Shri Ramdas Dhaya Patil,** whereby in a similarly situated land, arising out of the same notification, has granted the compensation at the rate of Rs.14/- per sq. mtr. by observing as under:-

> "7. Shri Patil, learned counsel for the claimant vehemently urged that this rate was inadequate and in fact the learned Trial Judge should have granted at least Rs.15/- per sq.mtr. considering the entire available evidence on

record. In this regard, it must be noted that the Division Benches of this Court have time and again had occasion to decide the market value of the lands which were acquired for the New Bombay Metro Project from different villages. In First Appeal No. 754 of 1986 alongwith several other appeals, the Division Bench of this Court **(Puranik & Moharir,JJ)** on 25th/26th February, 1993 had occasion to adjudicate the similar issue regarding various lands located in surrounding villages. For the purpose of adjudicating the relevant issue, the Division Bench though it fit to make several groups of the impugned lands depending on the proximity of the said lands to the National Highway which runs through the New Bombay Metro Project itself and came to the conclusion that those lands were valued between Rs.20/- to Rs.25/- depending on the groups made for the purposes of valuation on the basis of proximity to the National Highway and other areas. In this regard, they also noted that the purpose of the acquisition is for development of a township and the valuation of the land is not to be determined merely for the purpose of residence or a township thereby signifying the non-agricultural use, but the fact must be borne in mind that this township is a necessary supplement to the industrial growth in and around this area thereby enhancing its value more than an ordinary residential area would fetch. It is necessary that the industries will try to accommodate their officers and workers in its vicinity and thereby it becomes a necessary supplement to the industry itself. Therefore, assessing the market value of these lands has to be in consonance with the industrial growth of whole track as such. It was further observed that, assuming that some of the lands are near railway station or other landmarks, but in the magnitude of the growth of the industrial development and the surrounding areas the disadvantage merely on the ground of distance, from the landmarks, such as, national highway as well as industrial areas, would disappear particularly when there are various infrastructural facilities available to the impugned lands. Therefore, taking the view

into account and noting the available evidence on record including that of expert valuer, I am of the view that the impugned land would be of the market value of Rs.15/- per sq.mtr.

8. The learned A.G.P. urged that the Apex Court has time and again emphasis on the fact that certain development charges are required to be deducted and the judgments of the Apex Court as well as this Court are of the view that the repair and development charges would be 10% to 20% from the awarded amount. The valuer has opined that the land is levelled and well threshed and, therefore, the cost of development would be negligible. Therefore, I am of the view that, it would be necessary to deduct development charges at the rate of 10% from the awarded amount and, therefore, the net market value of the impugned land would be Rs.14/- per sq.mtr.

4. In the present case also, the land is covered by the notification situated at Valavali, Tq. Panvel. In that case also, appellant claimed Rs.20/- to Rs.25/- per sq.mtr. As observed above, and as this Court has already taken a view after appreciating the material available on record and as the present land is also situated in the same village and covered by the same notification, I am of the view that, the is entitled the net market value of the land at the rate of Rs.14/- per sq.mtr.

5. So far as the limitation part is concerned, the Court as granting compensation, consider the aspect wherein the claimant is entitled for the enhance

compensation and granted accordingly.

6. The appeal No.466 of 1993 is, therefore, allowed.

7. So far as the additional components, the Court has observed in para 10 of the above judgment also covered the case of the appellant-owner. Therefore, no interference in the impugned award in this regard.

8. Therefore, the appeal of the State for the above reasoning itself stand dismissed with no costs.

9. The appeal 466/1993 / award is allowed to the above extent. Rest of the operative award/order is maintained subject to the calculation at the rate of Rs.14 per sq.mtr. as observed above.

10. The award/judgment be drawn accordingly and both the appeals are disposed off, accordingly.

11. No costs.

(ANOOP V. MOHTA, J.)